

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2439 OF 2004**

Mr. Mukul Ghule ...Petitioner

Versus

Mr. Udhav Ahir & Anr ...Respondents

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Mr. V. .C. Gupte, i/b Mr. Amar Desai, Advocate
for Petitioner

Mr. Ravindra Sharma, Adv. for Respondent No.1.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 31ST AUGUST, 2005

P. C. :-

1. Heard the learned advocate for the petitioner i.e. original accused, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of process issued against him in Criminal Case No. 75/S/1996 which is pending in the Court of learned Additional C.M.M.. 5th Court, Dadar, Mumbai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, interim stay granted earlier shall stand continued for a period of five weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. The Supreme Court in the case of **Amarnath Vs. State of Hariyana and another, reported in (1977) 4 SCC 137**, has observed that the powers of the revisional Court in the case of this nature i.e. quashing of process/ recalling of process are the

same as that of the High Court in a case under Section 482 of Cr. P. C. In this view of

the matter, all contentions of the petitioner in the present petition are left open.

6. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Writ Petition is disposed of.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5941 OF 2004
IN
CRIMINAL WRIT PETITION NO. 2439 OF 2004

Mr. Mukul Ghule ...Applicant

Versus

Mr. Udhav Ahir & Anr ...Respondents

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Mr. V .C. Gupte, i/b Mr. Amar Desai, Advocate for Applicant.

Mr. Ravindra Sharma, Adv. for Respondent No.1.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 31ST AUGUST, 2005

P. C.:-

. In view of the order dated 31.08.2005 passed in Criminal Writ Petition No. 2439 of 2004, this application does not survive and the same is disposed of as such.
